

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
MAY 23, 2016
COUNCIL CHAMBERS
6:30 P.M.

CALL TO ORDER

Mayor Rosenthal called the meeting to order at 6:34 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Laura Rosenthal; Mayor Pro Tem Lou La Monte; and Councilmembers Joan House, Skylar Peak (arrived at 7:58 p.m.), and John Sibert

ALSO PRESENT: Trevor Rusin, Assistant City Attorney; Reva Feldman, City Manager; Lisa Pope, City Clerk; Craig George, Environmental Sustainability Director; Bob Stallings, Parks and Recreation Director; Bonnie Blue, Planning Director; Rob DuBoux, Acting Public Works Director; Elizabeth Shavelson, Assistant to the City Manager; and Kristin Riesgo, Recreation Supervisor

PLEDGE OF ALLEGIANCE

Galen Selbert-Perkins led the Pledge of Allegiance.

APPROVAL OF AGENDA

MOTION Councilmember House moved and Councilmember Sibert seconded a motion to approve the agenda.

FRIENDLY AMENDMENT

Mayor Rosenthal moved to hear Item No. 7.A. following the Consent Calendar and adjourning in memory of Mary "Mac" Gonzalez and Craig Mattox. Councilmember House and Councilmember Sibert accepted the amendment.

The amended motion carried 4-0, Councilmember Peak absent.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was properly posted on May 12, 2016.

ITEM 1 CEREMONIAL/PRESENTATIONS

A. Southern California Gas Company Advanced Meter Project Overview

Mike Harriel, Southern California Gas Company Public Affairs Manager, introduced Daisie Cristobal Sanchez, Community Education and Outreach Project Manager, and Derek Sampson, Site Acquisition Manager.

Ms. Cristobal Sanchez explained the advanced meter project and community outreach efforts.

Mr. Sampson discussed co-location with Southern California Edison facilities.

ITEM 2.A. PUBLIC COMMENTS

Dave Rydman, Los Angeles County Waterworks District 29, provided an update on water conservation.

Councilmember Sibert discussed the importance of fixing leaks. He asked if infrastructure leaks were being reviewed. Mr. Rydman stated the District was identifying and prioritizing infrastructure needs.

In response to Mayor Rosenthal, Mr. Rydman stated Malibu's required reduction was 36%.

Mayor Rosenthal recognized Galen Selbert-Perkins as Honorary Mayor for the Day.

Anthony McDemas, PocketMate Maps, provided sample community maps and stated he was working with the Chamber of Commerce on creating a Malibu map.

ITEM 2.B. COMMISSION / COMMITTEE / CITY MANAGER UPDATES

Katherine Hall, Harry Barovsky Memorial Youth Commission, reported on Commission activities and accomplishments for the year and presented a video of graduating Commissioners.

City Manager Feldman provided contact information for residents with Frontier Communications issues. She announced upcoming Malibu Library events. She reminded the community of increased visitors over Memorial Day weekend.

ITEM 2.C. SUBCOMMITTEE REPORTS / COUNCIL COMMENTS

Mayor Pro Tem La Monte discussed the recent California Contract Cities Association Annual Conference, at which he was installed as President, and thanked staff. He stated he addressed the City's rehabilitation bill with lobbyists and attended a rally at the State Capital to get the legislature to pass a funding package to fix roads. He stated he, Mayor Rosenthal and City Manager Feldman

attended the opening of the Metro Expo Line. He discussed the May 23, 2016 Administration and Finance Subcommittee meeting.

Councilmember Sibert apologized for his absence from the last meeting.

Councilmember House announced the Concert on the Bluffs on June 12, 2016, 4:30 p.m.

Mayor Rosenthal stated she, Mayor Pro Tem La Monte and City Manager Feldman attended the opening of the Metro Expo Line. She discussed the Malibu Area Conservation Coalition (MACC) meeting regarding water issues and announced the Malibu One Water Festival on June 18, 2016, at Point Dume Marine Science School. She stated she participated on the 8th grade exit interviews. She congratulated Mayor Pro Tem La Monte on becoming President of California Contract Cities and thanked staff for putting on the conference. She discussed the recent Los Angeles (LA) County Library Commission meeting and stated she attended A Taste of Malibu. She announced a Homeless Connect Day on May 25, 2016, upcoming Malibu Unification Negotiations Committee meetings on May 24 and May 31, 2016, the City Hall closure in observance of Memorial Day, a Business Roundtable on June 3, 2016, the Concert on the Bluffs on June 12, 2016, and the Malibu High School Graduation on June 8, 2016.

ITEM 3 CONSENT CALENDAR

Item No. 3.A.1. was pulled by the public.

MOTION Mayor Pro Tem La Monte moved and Councilmember Sibert seconded a motion to approve the Consent Calendar, with the exception of Item No. 3.A.1. The motion carried 4-0, Councilmember Peak absent.

The Consent Calendar consisted of the following items:

B. New Items

1. Waive Further Reading

Recommended Action: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

2. Approve Warrants

Recommended Action: Allow and approve warrant demand numbers 47352-47476 listed on the register from the General Fund and direct the City Manager to pay out the funds to each of the claimants listed in Warrant Register No. 573 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands in a total amount of \$594,800.52. City of Malibu payroll check numbers 4662-4664 and ACH deposits were issued in the amount of \$184,857.97.

3. Approval of Minutes
Recommended Action: Approve the minutes for the April 25, 2016 Regular City Council meeting and the April 27, 2016 Special City Council meeting.
4. Amendment to Agreement with Geosyntec Consultants
Recommended Action: Authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Geosyntec Consultants to make changes and finalize the Enhanced Watershed Management Program for the North Santa Monica Bay Coastal Watersheds.

The following item was pulled from the Consent Calendar for individual consideration:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 405

Recommended Action: Conduct second reading, unless waived, and adopt Ordinance No. 405 approving Local Coastal Program Amendment No. 09-006 amending the Local Implementation Plan to establish a Trail Dedication Incentive Program and the Parkland and Trails Dedication Incentive Program Map; and repealing Ordinance No. 358.

Brian Folk provided his suggestion to implement the intent for trail realignment.

Planning Director Blue stated the amendment process should proceed rather than making the suggested modifications to the Escondido Trail as proposed by Mr. Folk.

MOTION Councilmember House moved and Mayor Pro Tem La Monte seconded a motion to conduct second reading, unless waived, and adopt Ordinance No. 405 approving Local Coastal Program Amendment No. 09-006 amending the Local Implementation Plan to establish a Trail Dedication Incentive Program and the Parkland and Trails Dedication Incentive Program Map; and repealing Ordinance No. 358. The motion carried 4-0, Councilmember Peak absent.

ITEM 7 COUNCIL ITEMS

A. 2016-2017 Harry Barovsky Memorial Youth Commission Appointments

Recommended Action: Appoint members to the 2016-2017 Harry Barovsky Memorial Youth Commission.

Recreation Supervisor Riesgo presented the staff report.

Rachel DeAngelis discussed her achievements and community involvement and requested the Council appoint her to the Youth Commission.

Lauren Maischoss discussed her experience in Malibu activities and requested the Council appoint her to the Youth Commission.

William Kish discussed his experience on the Youth Commission and requested reappointment.

Russell Kish was not present at the time of the hearing.

Abby Droeger discussed her involvement in the Youth Commission and requested reappointment.

Katherine Hall discussed her involvement in the Youth Commission and requested the Council appoint her for another term.

Quinn Graham discussed his involvement on the Youth Commission and requested reappointment.

Crystal Graham discussed her involvement on the Youth Commission and requested reappointment.

Jenny Orian discussed her involvement in the community and on the Youth Commission and requested reappointment.

Grace Kinyon discussed her skills and requested the Council appoint her to the Youth Commission.

Collette Aldrich addressed the Council requesting appointment to the Youth Commission.

MOTION Councilmember House moved and Mayor Pro Tem La Monte seconded a motion to: 1) Appoint the following 32 applicants to the 2016-17 Harry Barovsky Memorial Youth Commission; and 2) task the Youth Commission to, within the first two months of the new term, evaluate the selection process for future Commission appointments, including length of term, number of appointments per grade (7-12) and monthly volunteer requirements:

Abby Droeger, Katherine Hall, Grace Kinyon, William Kish, Jade Soufer, Zita Surprenant, Brayden Ekman, Crystal Graham, Ryan Janou, Jennifer Orian, Maximilian Roth, Collette Aldrich, Harry Culhane, Lauren Maischoss, Sorin Moore, Tripp Principe, Travis Springer, Dunya Taylan, Rachel DeAngelis, Miela Efraim, Quinn Graham, Russell Kish, Cheyenne Obrien, Morgan Perlmutter,

David Sagona, Lola Stanley, Jaden Fisher, Luca Moore, Andrew Springer, Alexandra Surprenant, Alana Witting, and Maximus Obrien.

Councilmember Sibert indicated support for the program.
Mayor Pro Tem La Monte indicated support for the motion.

Mayor Rosenthal stated she supported the motion and commended the applicants.

Parks and Recreation Director Stallings thanked Recreation Supervisor Riesgo for managing the Commission.

The motion carried 4-0, Councilmember Peak absent.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Local Coastal Program Amendment No. 14-001 – An amendment to Prohibit the Use of Anticoagulant Rodenticides Citywide
Recommended Action: Continue the item to a date uncertain.

This item was continued upon approval of the agenda.

ITEM 5 OLD BUSINESS

None.

ITEM 6 NEW BUSINESS

- A. The Park at Cross Creek, LLC and the Malibu Bay Company v. City of Malibu, LACSC Case No. BS155299, Litigation Decisions; and Measure R Follow-up - Update on Ordinance to Regulate Chain Stores (Continued from May 9, 2016)
Recommended Action: 1) Receive status reports on Measure R litigation and contingency zoning ordinance amendment to regulate chain stores; and 2) decide whether to file an appeal.

Assistant City Attorney Rusin presented the staff report.

RECESS Mayor Rosenthal called a recess at 7:51 p.m. The meeting reconvened at 7:58 p.m. with all Councilmembers present, including Councilmember Peak who arrived at 7:58 p.m.

Ted Vaill, Malibu Democratic Club, discussed the potential amicus brief if Malibu was part of the appeal. He urged the Council to join in the litigation.

John Mazza stated the cost of appeal was minimal and the City should join the litigation.

Lance Simmens discussed the Malibu Vision and Mission Statements and urged the Council to support the will of the voters.

Howard Ferguson stated the Council was mandated by the majority of the population and the appeal must be made.

Michael Osterman deferred his time to Jefferson Wagner.

Jefferson Wagner thanked the Council for its service. He stated it was “silly season” with the upcoming election. He urged the Council to file an appeal.

Paul Grisanti discussed the reason Measure R was found unconstitutional. He suggested spending money on writing a new ordinance.

Lloyd Ahern stated 60% of the voters would not have voted for the measure if they knew it was illegal. He urged the Council to continue to do the right thing and get out of the litigation.

Ryan Embree urged the Council to file the appeal.

Lynn Norton trusted the Council would represent the citizens of Malibu and file the appeal.

In response to Councilmember Sibert, Assistant City Attorney Rusin stated the City could abandon the appeal after filed. Councilmember Sibert stated the Council had committed to defend the law enacted by a vote of the people. He suggested implementation of a Civic Center Specific Plan. He indicated support for filing the appeal.

Mayor Rosenthal asked the risks of filing the appeal. Assistant City Attorney Rusin stated the risks involved the estimated cost of \$75,000, additional litigation, more restrictive Court of Appeals decision, and attorney’s fees. He explained filing of amicus briefs.

Councilmember House discussed her caution in litigation. She discussed the judgement that Measure R was illegal and unconstitutional. She estimated the cost of joining the appeal to be at least \$175,000. She indicated support for a specific plan and chain store ordinance. She stated she could not support the appeal.

Mayor Pro Tem La Monte stated he did not see the gain in the City joining the appeal because it was already being appealed. Assistant City Attorney Rusin stated the City would file its own brief, including arguments regarding the savings clause.

Councilmember Peak stated the community made a decision about development in Malibu. He stated the City had committed to support the law and had the duty to defend the law.

MOTION

Councilmember Peak moved and Councilmember Sibert seconded a motion to direct the City Attorney to file an appeal of *The Park at Cross Creek, LLC and the Malibu Bay Company v. City of Malibu*, LACSC Case No. BS155299.

Mayor Rosenthal asked if the City could start work on a Civic Center Specific Plan while the appeal proceeded. City Manager Feldman stated the funding had not yet been allocated and \$450,000 would need to be appropriated.

Councilmember Peak stated he spoke with Michelle Reiner prior to the May 9 meeting and she requested the City file an appeal.

Mayor Rosenthal stated the entire Council cared about the City. She stated Measure R passed by a majority of the voters. She stated the Court did not want delays and allowed Measure R to stay as law. She stated she would support an appeal to hear the Court of Appeals decision, while proceeding with a specific plan. She requested feedback from the Council on capping the amount spent on the litigation.

Mayor Pro Tem La Monte indicated support for capping the amount spent on litigation. He stated the appeal was happening regardless and he did not see the advantage.

Councilmember Sibert stated the specific plan needed participation from opponents, proponents, property owners and residents.

Councilmember House asked if the interveners could drop out of the appeal. Assistant City Attorney Rusin stated the interveners could drop out.

Councilmember Peak asked if there was a better case if the City was also defending the case. Assistant City Attorney Rusin stated the only argument available to the City was its interpretation of Measure R and the savings clause.

Councilmember Peak proposed City Attorney Hogin report back to Council on any increased cost of the appeal.

FRIENDLY AMENDMENT

Mayor Rosenthal moved to require Council consideration of costs exceeding \$75,000. Councilmember Peak and Councilmember Sibert accepted the amendment.

Mayor Rosenthal discussed issues with amending laws approved by citizen initiative.

The question was called and the amended motion carried 4-1, Councilmember House dissenting.

B. Acquisition of APNs 4458-028-006 and 4458-028-020 (24000 Civic Center Way) known as the Winter Canyon property for Civic Center Wastewater Treatment Facility

Recommended Action: 1) Approve the purchase agreement with the Malibu Bay Company for the acquisition of APNs 4458-028-006 and 4458-028-020 (24000 Civic Center Way); and 2) Authorize the City Manager to execute all documents associated with the purchase agreement.

City Manager Feldman presented the staff report.

Ryan Embree questioned the appraisal on the property.

Norm Haynie discussed fair market value and best use and value to the City. He indicated support for the purchase.

City Manager Feldman stated the City and property owner had conducted appraisals and appraisal reviews. She stated science determined the site as the best location for the project.

MOTION

Councilmember House moved and Mayor Pro Tem La Monte seconded a motion to: 1) approve the purchase agreement with the Malibu Bay Company for the acquisition of APNs 4458-028-006 and 4458-028-020 (24000 Civic Center Way); and 2) authorize the City Manager to execute all documents associated with the purchase agreement. The motion carried unanimously.

C. Civic Center Wastewater Treatment Facility (CCWWTF) Construction Contracts and Agreements

Recommended Action: 1) Reject the bid protest and approve the award and authorize the City Manager to execute a construction contract with Myers & Sons Construction, LP, in the amount of \$21,712,904.30 for construction of the CCWWTF – Phase 1, Treatment Plant Project, Specification No. 2036; 2) Reject the bid protest and approve the award and authorize the City Manager to execute a construction contract with Vido Artukovich & Son, Inc./Vidmar, Inc., JV, in the amount of \$20,451,881 for construction of the CCWWTF – Phase 1, Pipelines and Pump Stations Project, Specification No. 2036A; 3) Approve the award and authorize the City Manager to execute a construction contract with Cascade Drilling, LP, in the amount of \$2,128,341 for construction of the CCWWTF–Phase 1, Injection Wells Project, Specification No. 2036B; 4) Authorize the City Manager to execute Amendment No. 10 to the Professional Services Agreement with RMC Water and Environment in the amount of \$1,150,000 for professional

engineering design services during the construction phase of the CCWWTF – Phase 1 Project; 5) Authorize the City Manager to execute a Professional Services Agreement with Mimiaga Engineering Group in an amount not to exceed \$1,929,340 for construction management services for construction of the CCWWTF – Phase 1 Project; and 6) Amend the Adopted Budget for Fiscal Year 2015-2016 in the amount of \$47,372,466.30 to Account No. 310-9049 (CCWWTF).

Acting Public Works Director DuBoux presented the staff report.

In response to Mayor Rosenthal, Acting Public Works Director DuBoux clarified that the figure on page 7 of the agenda report should have been 1.22.

In response to Mayor Rosenthal and Councilmember Sibert, Acting Public Works Director DuBoux stated the use of a City fax machine by contractors was not strictly disallowed by the City. He stated he was unaware of what advantage was gained by use of the City fax machine.

In response to Councilmember Peak, Acting Public Works Director DuBoux discussed contractor experience in wastewater projects of the same scale and stated that staff felt the selected contractors were qualified.

Micaiah Revero deferred his time to Matt Weber.

Justin Blickle deferred his time to Matt Weber.

Kevin Carter deferred his time to Matt Weber.

Matt Weber discussed the contractor's experience with utilizing fax machines. He discussed the experience and financial status of Myers and Sons. He stated there was no basis to reject the bid.

Kevin Shenkman, Malibu resident representing Kana Engineering, discussed the bid protest. He suggested design changes to reduce cost and environmental impact. He advocated rejecting all bids and redesigning the project.

Ryan Embree expressed concern with the contracting process and amendments to RMC's agreement. He discussed the need for adequate bonding.

Norm Haynie discussed his experience in bidding projects and the competitive process. He discussed the importance of details on the plans and adequate oversight by staff. He indicated support for the staff recommendation.

City Manager Feldman discussed the State Water Resources Control Board deadline and suggestion that the project be redesigned. She expressed confidence

that the contractors would find cost savings during construction.

Mayor Pro Tem La Monte commended staff.

MOTION

Mayor Pro Tem La Monte moved and Councilmember Sibert seconded a motion to: 1) Reject the bid protest and approve the award and authorize the City Manager to execute a construction contract with Myers & Sons Construction, LP, in the amount of \$21,712,904.30 for construction of the CCWWTF – Phase 1, Treatment Plant Project, Specification No. 2036; 2) Reject the bid protest and approve the award and authorize the City Manager to execute a construction contract with Vido Artukovich & Son, Inc./Vidmar, Inc., JV, in the amount of \$20,451,881 for construction of the CCWWTF – Phase 1, Pipelines and Pump Stations Project, Specification No. 2036A; 3) Approve the award and authorize the City Manager to execute a construction contract with Cascade Drilling, LP. in the amount of \$2,128,341 for construction of the CCWWTF– Phase 1, Injection Wells Project, Specification No. 2036B; 4) Authorize the City Manager to execute Amendment No. 10 to the Professional Services Agreement with RMC Water and Environment in the amount of \$1,150,000 for professional engineering design services during the construction phase of the CCWWTF – Phase 1 Project; 5) Authorize the City Manager to execute a Professional Services Agreement with Mimiaga Engineering Group in an amount not to exceed \$1,929,340 for construction management services for construction of the CCWWTF – Phase 1 Project; and 6) Amend the Adopted Budget for Fiscal Year 2015-2016 in the amount of \$47,372,466.30 to Account No. 310-9049 (CCWWTF).

In response to Councilmember Peak, Justin Blickle, Waterworks Manager for Myers and Sons, discussed water infrastructure projects in the City of Los Angeles, Metropolitan Water District and Northern California.

Mayor Rosenthal thanked staff for its work on the project and funding sources.

The question was called and the motion carried unanimously.

ITEM 7 COUNCIL ITEMS (Continued)

B. Support for Ballot Measure to Generate New Revenue for Transportation in Los Angeles County (Mayor Rosenthal)

Recommended Action: At the request of Mayor Rosenthal, adopt Resolution No. 16-21 recommending that the Los Angeles County Metropolitan Transportation Authority Board of Directors vote to place a measure before the voters in Los Angeles County on the November 8, 2016 ballot to generate new revenue for transportation in Los Angeles County.

Mayor Rosenthal presented the staff report.

Ryan Embree stated there were no projects in Malibu or areas impacting Malibu. He requested the Council opine on all measures before the voters.

Councilmember Sibert discussed benefits to the Las Virgenes-Malibu Council of Governments and Malibu from Los Angeles County Measure R.

In response to Councilmember Peak, City Manager Feldman stated the City of Malibu would contribute approximately \$300,000. She stated the City could pass additional sales tax.

Mayor Pro Tem La Monte stated the matter was urgent for all cities in Los Angeles County.

MOTION Councilmember Peak moved and Mayor Pro Tem La Monte seconded a motion to adopt Resolution No. 16-21 recommending that the Los Angeles County Metropolitan Transportation Authority Board of Directors vote to place a measure before the voters in Los Angeles County on the November 8, 2016 ballot to generate new revenue for transportation in Los Angeles County. The motion carried unanimously.

ADJOURNMENT

MOTION At 9:53 p.m. Councilmember Sibert moved and Councilmember Peak seconded a motion to adjourn the meeting in memory of Mary "Mac" Gonzalez and Craig Mattox. The motion carried unanimously.

Approved and adopted by the City Council of the
City of Malibu on June 27, 2016.



LAURA ROSENTHAL, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)